

TENNESSEE BOARD OF PHARMACY
MARCH 6, 2012
227 FRENCH LANDING, IRIS ROOM
NASHVILLE, TN

BOARD MEMBER PRESENT

Brenda Warren, D.Ph., President
Charles Stephens, D.Ph., Vice President
Joyce McDaniel, Consumer Member
Jason Kizer, D.Ph.
Nina Smothers, D.Ph.
Will J. Bunch, D.Ph.
Larry Hill, D.Ph.

STAFF PRESENT

Andrew Holt, Executive Director
Terry Grinder, Pharmacy Investigator
Mark Waters, Deputy General Counsel
Tommy Chrisp, Pharmacy Investigator
Scott Denaburg, Pharmacy Investigator
Richard Hadden, Pharmacy Investigator
Rebecca Moak, Pharmacy Investigator
Sheila Bush, Administrative Manager
Mary Brewer, Database Manager

The Tennessee Board of Pharmacy convened on Tuesday, March 6, 2012, in the Iris Room, 227 French Landing, Nashville, TN. A quorum of the members being present, the meeting was called to order at 9:09 a.m., C.D.T., by Dr. Brenda Warren.

Minutes

The minutes from the January 11-12, 2012 board meeting were presented. After discussion, Dr. Smothers made the motion to approve the minutes as amended. Dr. Hill seconded the motion. The motion carried.

General Discussion

The board discussed the effective date of consent orders. If the signatures on the consent order of the licensee and the board's president are on different dates, there may be confusion as to when the licensee can petition the board for an order modification. Also, if the board meets every two months, there is a delay in starting a period of probation. On a usual consent order there are three different dates, the date that the board grants reinstatement, when the licensee signs the order and when the board president signs. Dr. Warren stated that the issue for the board is what date do they want the probation to begin and what date that they can come back and ask to be PIC or to be a floater. After discussion, Dr. Stephens made the motion that the probation does not start until all the conditions have been met and all signatures have been obtained. Dr. Kizer seconded the motion. The motion carried. Ms. McDaniel abstained.

Legal Report

1. Case No.: L12-PHR-RBS-201200032

Complainant alleged pharmacy offered continual early refills. Respondent admitted having a policy not to question refilling prescriptions 1 day early each month. Investigator reviewed Rule 1140-03-.03(6) with Respondent, and respondent indicated that policy would change and in refilling prescription, Respondent would start using professional judgment in deciding whether there is a legitimate reason for early refill.

Prior discipline: none

Recommendation: LOI to PIC or Dismiss

Ms. McDaniel made the motion to **dismiss** the complaint. Dr. Stephens seconded the motion. The motion carried.

2. Case No.: L12-PHR-RBS-201200034

Complainant alleged pharmacy offered continual early refills. Respondent denied having a policy allowing refilling prescriptions early each month, and professional judgment is used in deciding whether there is a legitimate reason for early refill.

Prior discipline: none

Recommendation: Dismiss

Dr. Stephens made the motion to **accept counsel's recommendation**. Ms. McDaniel seconded the motion. The motion carried.

3. Case No.: L12-PHR-RBS-20100033

Complainant alleged pharmacy offered continual early refills. Respondent admitted to refilling prescriptions early but only for a good reason. Respondent denied refilling prescriptions more than 2 days early. Investigator reviewed Rule 1140-03-.03(6) with Respondent, and respondent indicated that rule would be further discussed with pharmacy staff to insure the use of professional judgment in deciding whether there is a legitimate reason for early refill.

Prior discipline: none

Recommendation: Dismiss

Dr. Hill made the motion to **accept counsel's recommendation**. Dr. Bunch seconded the motion. The motion carried.

4. Case No.: L12-PHR-RBS-201200031

Complainant alleged pharmacy offered continual early refills. Respondent admitted to refilling prescriptions up to 3 days early, but only after documenting that the patient has a good reason based upon professional judgment. Investigator directed Respondent to Rule 1140-03-.03(6), and cautioned Respondent about continual early refills.

Prior discipline: none

Recommendation: LOI to PIC or Dismiss

Dr. Kizer made the motion to **dismiss** the complaint. Dr. Smothers seconded the motion. The motion carried

5. Case No.: L12-PHR-RBS-201200009

Complainant patient alleged prescription filled by Respondent for hydrocodone 7.5/500 was shorted by 31 tablets. Complainant also alleged breach of confidentiality as complainant's prescription record was presented in court by her soon to be ex-husband. Respondent asserts that complainant's prescription was double counted and pill count is then checked against the number of tablets on the shelf. As to the breach of confidentiality, Respondent and staff do not recall giving out the complainant's prescription history; however it was noted that Complainant did give husband authorization for prescription pickup and this was never changed.

Prior discipline: none

Recommendation: Dismiss

Dr. Hill made the motion to **accept counsel's recommendation**. Dr. Smothers seconded the motion. The motion carried

6. Case No.: L12-PHR-201200023

Complainant alleged pharmacy offered continual early refills. Respondent admitted to refilling prescriptions early but only for a good reason after utilizing professional judgment. Respondent denied refilling prescriptions more than 2 days early. Investigator reviewed Rule 1140-03-.03(6) with Respondent, and respondent indicated that rule would be further discussed with pharmacy staff to insure the use of professional judgment in deciding whether there is a legitimate reason for early refill.

Prior discipline: none

Recommendation: LOI to PIC or Dismiss

Dr. Bunch made the motion to **dismiss** the complaint. Dr. Stephens seconded the motion. The motion carried

7. Case No.: L12-PHR-201200011

Complainant physician alleged Respondent erroneously used complainants name as the prescribing physician on two prescriptions for patient. Investigation revealed that prescriptions were written with no physicians name at top with hospital sticker covering portion of hospital address and an illegible signature. Respondent indicated that two calls were placed to the hospital to verify the prescribing physician's name, but the calls were not returned. Respondent asked patient if patient had any other paperwork and Respondent was supplied with discharge paperwork which contained the complainant's name. Respondent indicated that he was acting in the best interest of the patient. Respondent eventually received word from Hospital to just put Dr X's (name redacted) name (a different physician) on it, at which time Respondent updated the records.

Prior discipline: none

Recommendation: Dismiss

Dr. Smothers made the motion to **accept counsel's recommendation**. Dr. Kizer seconded the motion. The motion carried

8. Case No.: L12-PHR-201200004

Complaint generated from self report. Respondent, oxygen distributor, operated on a lapsed license for 7 months. Response from Attorney for Respondent indicated this was due to human error.

Prior discipline: none

Recommendation: \$50.00 per month for unlicensed activity.

Ms. McDaniel's made the motion to **authorize a formal hearing** with a \$50.00 per month civil penalty for unlicensed activity. Dr. Hill seconded the motion.

9. Case No.: L12-PHR-RBS-201200022

Complainant prescriber from North Carolina, Complainant states that two prescriptions written by complainant in North Carolina were filled in Memphis Tennessee. Complainant believes that it should be encouraged that Tennessee pharmacies not fill prescriptions from North Carolina.

Prior discipline: none

Recommendation: Dismiss

Dr. Stephens made the motion to **accept counsel's recommendation**. Ms. McDaniel seconded the motion. The motion carried

10. Case No.: L11-PHR-RBS-201100166

Complaint generated from routine inspection. Inspection revealed technician had been working on an expired registration for 4 months.

Prior discipline: none

**Recommendation: PIC \$100.00 C.P. per month for allowing unregistered tech. to work in pharmacy.
Tech \$100.00 C.P.**

Dr. Kizer made the motion to **authorize a formal hearing** with \$100.00 civil penalty to the pharmacist in charge for the unregistered technician and a \$100.00 civil penalty to the technician for working on an expired registration. Dr. Hill seconded the motion. The motion carried.

11. Case No.: L11-PHR-201100205

Complainant alleged patient's prescription written for cetirizine 10mg, was misfilled instead for Citalopram 10mg. Respondent admits the misfill, and states that when misfill was recognized he spoke with patient and determined there were no adverse reactions.

Prior discipline: none

Recommendation: Discuss

Dr. Hill made the motion to issue a **Letter of Warning** to the dispensing pharmacist. Dr. Bunch seconded the motion. The motion carried.

12. Case No.: L11-PHR-RBS-201100173

Complaint alleged Respondent failed to call patient that prescription was ready for pick up for 10 days. Investigation revealed that patient had 3 prescriptions for said patient electronically submitted individually over a 2 hour period. Respondent states that prescriptions were filled as generated, the first prescription was filled and bagged, then an hour later when the remaining two prescriptions were generated and respondent began filling them. Respondent states that at that time patient arrived and announced that

prescriptions were called in and was there to pick them up. Respondent indicates that he though patient was referring to the prescriptions currently being filled and once finished bagged the two prescriptions together and dispensed them with proper counseling. Respondent indicated that the remaining prescription was recognized 10 days later when complainant had another prescription ready for pickup. At which time the prescription was dispensed.

Prior discipline: none

Recommendation: Discuss

Dr. Bunch made the motion to **dismiss** the complaint. Dr. Stephens seconded the motion. The motion carried

13. Case No.: L12-PHR-RBS-201200002

Complaint generated from an anonymous concerned citizen alleging animals, including pigs, monkeys and birds in a pharmacy. Respondent indicates that a new pharmacy had opened in the area and was aggressively trying to gain business, and assumes this was the source of the complaint. Respondent indicated that the former owner of the pharmacy did have a monkey a few years ago, but that even then, the monkey was never allowed in the pharmacy.

Prior discipline: none

Recommendation: Dismiss

Dr. Kizer made the motion to **accept counsel's recommendation**. Dr. Smothers seconded the motion. The motion carried

14. Case No.: L11-PHR-RBS-201100183

Complainant alleged Respondent split double strength time released medication and that Respondent had indicated that it was okay to do so. Prescription was for Intuniv 2mg and Respondent admitted to the halving of 4mg tablets to fill the prescription. Respondent states that he had seen it done before by other prescribers. He states that he apologized to the patient's caregiver for not contacting the prescriber before doing so in this case.

Prior discipline: 2008-refused to fill--dismissed

Recommendation: LOW as to splitting time release medication

Dr. Hill made the motion to issue a **Letter of Warning** to the pharmacist. Dr. Stephens seconded the motion. The motion carried.

15. Case No.: L11-PHR-RBS-201100171

Complainant alleged patient's prescription written for Risperidone 3mg was misfilled instead for Ropinirole 3mg, and that it has happened once before. Respondent admits to the misfill, and verified that none of the misfilled medication had been taken by the patient. Respondent indicates that they have no record or knowledge of any other misfill regarding this patient.

Prior discipline: none

Recommendation: LOI

Dr. Hill made the motion to issue a **Letter of Warning** for the misfill to the pharmacist. Dr. Bunch seconded the motion. The motion carried.

16. Case No.: L11-PHR-RBS-201100177

Complaint alleged out of state pharmacy call center in Texas was allowing pharmacists without Tennessee licenses to service hospitals in Tennessee. Respondent internally investigated the allegation and indicates that during a four month period after receiving the C&D in 2011 3 pharmacists have processed Tennessee orders under the mistake belief that they could do so.

Prior discipline: 2011—C&D as to above

Recommendation: Discuss

Dr. Stephens made the motion to **defer** the complaint until the administrative office can obtain the names of the 3 pharmacists and to check if they are licensed in Tennessee. Dr. Kizer seconded the motion. The motion carried.

17. Case No.: L12-PHR-RBS-201200005

Complaint generated from self report. Respondent dispensing pharmacist self reported the dispensing of 4 Suboxone 8mg strips without a physician authorization when patient came in to pharmacy November 26, 2011, Thanksgiving weekend, requesting a refill of patient's Suboxone prescription when none were available. Respondent states that prescription should not have run out, and that patient stated that dosage had been changed by prescriber, resulting in the current situation. Respondent indicates that patient informed Respondent that patient had an appointment on Tuesday November 29, 2011 with prescriber. Respondent indicated that prescription order was issued by prescriber on the date of appointment and subsequently filled. Respondent was concerned about the patient relapsing and in hindsight realizes his actions were a violation.

Prior discipline: 2008--Unlic. Tech. \$900.00 CP

Recommendation: Discuss

Dr. Stephens made the motion to **dismiss** the complaint. Dr. Hill seconded the motion. The motion carried

18. Case No.: L12-PHR-RBS-20120007

Complaint generated from location change inspection. Investigator found one individual working as a technician without ever registering with BOP. Time of unlicensed activity was 12 months.

Prior discipline: none

Recommendation: **PIC \$100.00 C.P. per month for allowing unregistered tech. to work in pharmacy.**
Tech \$100.00 C.P.

Dr. Stephens made the motion to **authorize a formal hearing** with a \$900.00 civil penalty to the pharmacist in charge for allowing an unregistered technician to work in the pharmacy. Ms. McDaniel seconded the motion. The motion carried. No action taken against the unlicensed technician.

19. Case No.: L12-PHR-RBS-201200001

Complaint generated from an anonymous tip to BOP that Respondent pharmacist would periodically leave the pharmacy with only pharmacy technician and allows pharmacy technician to dispense prefilled prescriptions in his absence. Respondent admits that from time to time he leaves the pharmacy for lunch and allows the technician to dispense only prescriptions that have already been filled. Technician admits that this happens maybe one time a month.

Prior discipline: none

Recommendation: Discuss

Dr. Hill made the motion to issue a **Letter of Warning** to the pharmacist. Dr. Smothers seconded the motion. The motion carried.

20. Case No.: L11-PHR-RBS-201100195

Complaint patient alleged that pharmacy delayed dispensing of prescription for HGH for 8 days. Complainant states that that prescription was valid and delay was unnecessary. Respondent indicates that due to the nature and regulation of HGH, Respondent utilizes 3 levels of review, which required additional information from the provider.

Prior discipline: none

Recommendation: Dismiss

Ms. McDaniel made the motion to **accept counsel's recommendation**. Dr. Stephens seconded the motion. The motion carried

21. Case No.: L11-PHR-RBS-201100197

Complaint alleged patient's prescription for ceftriaxone 1gm was misfilled for Vancomycin 1mg. Respondent indicates that prescription was originally properly filled with the correct drug, but that the technician failed to put any diluent in. Respondent states he told the tech to take it back and correct it. Respondent states that technician came back with the bag and Respondent was told by technician that the diluent had been added so he did not check it. Respondent states that what actually happened was the technician when back to the IV room and placed the bag down, got the diluent and put it in the wrong bag and brought the wrong bag out to the patient. Respondent states that the misfilled medication was never administered to the patient. Respondent indicates that a new procedure is in place that the pharmacist now will hand the prescription to the patient to assure this error never happens again.

Prior discipline: none

Recommendation: Discuss

Dr. Kizer made the motion to issue a **Letter of Warning** to the dispensing pharmacist for the misfil. Dr. Bunch seconded the motion. The motion carried.

22. Case No.: L11-PHR-RBS-201100199

Complainant alleged that after picking up prescriptions from Respondent Pharmacy and returning home, they discovered that the prescription for hydrocodone was not in the bag. Upon inquiry into the missing hydrocodone, complainant states that someone at pharmacy told her that it had been dispensed to her, and that it was on video, but complainant states that she was never given the opportunity to review it. Complainant states Respondent did subsequently dispense a prescription for hydrocodone to complainant, but also flagged the account. Respondent states that upon the complainant's inquiry they were unable to find the original prescription but that the system stated that it had been filled. Respondent states that they later found the original prescription in a separate bag.

Prior discipline: none

Recommendation: Dismiss

Dr. Kizer made the motion to **accept counsel's recommendation**. Dr. Smothers seconded the motion. The motion carried

23. Case No.: L12-PHR-RBS-201200039

Complainant alleged pharmacy offered continual early refills. Respondent denies allowing early refills. .

Prior discipline: none

Recommendation: Dismiss

Dr. Kizer made the motion to **accept counsel's recommendation**. Ms. McDaniel seconded the motion. The motion carried

24. Case No.: L12-PHR-RBS-201200038

Complainant alleged pharmacy offered continual early refills. Respondent states they have a very strict refill policy, but occasionally will refill a prescription 1 to 2 days early, When a prescription is refilled early, professional judgment is used in deciding whether there is a legitimate reason for the early refill, and that it is never done repetitively.

Prior discipline: none

Recommendation: Dismiss

Dr. Smothers made the motion to **accept counsel's recommendation**. Dr. Hill seconded the motion. The motion carried

25. Case No.: L11-PHR-RBS-201100130

Respondent technician admitted by affidavit to the removal of one bottle (500 Tablets) of Hydrocodone, Alprazolam, and Oxycodone from the pharmacy without authorization or valid prescription by hiding them in her pants.

Quantity in question is as follows:

Hydrocodone 10/500	6709 tablets
Hydrocodone 10/325	1016 tablets
Alprazolam 2mg	600 tablets
Oxycodone 30mg	121 tablets

Prior discipline: none

Recommendation: Revoke

Ms. McDaniel made the motion to **authorize a formal hearing** for revocation. Dr. Hill seconded the motion. The motion carried.

26. Case No.: L11-PHR-RBS-201100180

Complaint generated from possible relocation inspection, as telephone number of record was out of order. Investigation yielded that Respondent had relocated without notifying the board. Time period of violation was one month.

Prior discipline: none

Recommendation: \$50.00 CP

Ms. McDaniel made the motion to **authorize a formal hearing** with a \$100.00 civil penalty. Dr. Kizer seconded the motion. The motion carried.

27. Case No.: L11-PHR-RBS-201100089

Complaint alleged unlicensed persons working in the pharmacy and that Respondent was consuming alcohol then filling prescriptions. Investigation revealed no validity to the allegations.

Prior discipline: none

Recommendation: dismiss

Dr. Kizer made the motion to **accept counsel's recommendation**. Dr. Smothers seconded the motion. The motion carried

28. Case No: L12-PHR-RBS-201200036

Complainant (district attorney) referred information to BOP alleging numerous charges and convictions against a pharmacist which may not have been reported by the pharmacist as required. Court documents were provided showing that the respondent received the following judgments:

3/17/2008-pled guilty to 02/25/2007 offense of driving on a revoked driver's license. 1st offense (Class B misdemeanor)
07/23/2008-pled guilty to 10/02/2007 offense of driving on a revoked driver's license. 2nd offense (Class A misdemeanor)
09/10/2008-respondent was declared to be a Habitual Traffic Offender
01/11/2012-pled guilty to 09/04/2011 offense of aggravated perjury (Class D felony)
01/11/2012-pled guilty to 09/14/2011 offense of violation of the Habitual Traffic Offender Status (Class E felony)

According to BOP records none of the above have been reported as required by rule 1140-2-.01(17)

Recommendation: Indefinite suspension with referral to TPRN for evaluation

Dr. Smothers made the motion to **authorize a formal hearing** for indefinite suspension.
Dr. Kizer seconded the motion. The motion carried.

Order Modification

Stephen Goss, D.Ph.

Dr. Goss is requesting permission from the board to be able to work as a pharmacist in charge. Dr. Goss' pharmacist license is on probation for five (5) years. After discussion, Dr. Hill made the motion to modify Dr. Goss' consent order and allow him to become a pharmacist in charge. Dr. Smother's seconded the motion. The motion carried.

Reinstatement

Michael Griffith, Pharm. D.

Dr. Griffith requested to have his licensed reinstated. Dr. Griffith's license was suspended indefinitely on 01/12/2012. After discussion, Dr. Stephens made the motion to reinstate Dr. Griffith's license. Dr. Griffith's license will be on five (5) year probation once he has completed all the necessary requirements for reinstatement with the following conditions. Ms. McDaniel seconded the motion. The motion carried.

- (a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b);
- (b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Dr. Thomas Dinella, except in the case of an emergency or upon proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
- (c) The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from the physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
- (d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
- (e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- (f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own

- expense, by agents of the Board, such as the Tennessee Pharmacist Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
- (g) The Respondent shall comply with all terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network (TPRN). Respondent shall return a copy of said contract with this Consent Order to the Board office;
 - (h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years from the retroactive start date of probation; however, after a period of two (2) years from the retroactive state date of probation, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years from the retroactive stare date of probation, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
 - (i) The Respondent shall provide written notice requesting an active license; satisfy all past due continuing pharmaceutical education and pay all cumulative license renewal fees and applicable penalties.

Dr. Stephens left at 11:30 a.m.

Phillip C. Moss, Pharm. D.

Dr. Moss requested to have his licensed reinstated. Dr. Moss' license was suspended indefinitely on 09/08/2011. After discussion, Dr. Kizer made the motion to reinstate Dr. Moss' license. Dr. Moss' license will be on five (5) year probation once he has completed all the necessary requirements for reinstatement with the following conditions. Ms. McDaniel seconded the motion. The motion carried.

- (a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b);
- (b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Dr. Michael Mertensen, except in the case of an emergency or upon proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
- (c) The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from the physician other than the Respondent's

- primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
- (d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
 - (e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
 - (f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacist Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
 - (g) The Respondent shall comply with all terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network (TPRN). Respondent shall return a copy of said contract with this Consent Order to the Board office;
 - (h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years from the retroactive start date of probation; however, after a period of two (2) years from the retroactive state date of probation, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years from the retroactive stare date of probation, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
 - (i) The Respondent shall provide written notice requesting an active license; satisfy all past due continuing pharmaceutical education and pay all cumulative license renewal fees and applicable penalties.

Request to Reapply

Kim McAlexander

Ms. McAlexander reapplied for registration as a pharmacy technician. Ms. McAlexander's registration was revoked on 01/12/2012. After discussion, Ms. McDaniel made the motion to approve Ms. McAlexander's application for registration as a pharmacy technician. Dr. Kizer seconded the motion. The motion carried.

Order Modification

Jerry Meaders, D.Ph.

Dr. Meaders is requesting permission from the board to work as a pharmacist in charge. Dr. Meaders' pharmacist license is on lifetime probation. After discussion, Ms. McDaniel made the motion to defer Dr. Meaders request to become pharmacist in charge until the next scheduled meeting. Dr. Meaders must bring his TPRN advocate as well as a timeline of his disciplinary actions. Dr. Kizer seconded the motion. The motion carried.

Dr. Stephens returned to the meeting at 1:40 p.m.

Application Review

Pharmacist

David R. Delmas

Dr. Delmas answered "no" to the question that asked "Have you ever been charged or convicted (including a nolo contendere pleas or guilty plea) of a felony or misdemeanor (other than minor traffic offenses) whether or not sentence was imposed, suspended, expunged, or whether you were pardoned from any such offense?" Dr. Delmas sent a letter to the board dated 02/02/2012 stating that he omitted a driving under influence liquor conviction that happened in 1983. Ms. McDaniel made the motion to approve Dr. Delmas' application for reciprocity. Dr. Hill seconded the motion. The motion carried.

Kenneth Daniels

Dr. Daniels answered yes to the question that asked "Has your pharmacist license in any jurisdiction ever been revoked, suspended, restricted, terminated, or otherwise been subject to disciplinary action (public or private) by any board of pharmacy or other state authority?" Dr. Daniels' Nevada pharmacist license was placed on probation by the NV BoP for a 2 year period on 04/27/1990 due to unauthorized dispensing of various controlled substances. On 01/14/1992, Dr. Daniel's IA pharmacist license was placed on 6 months probation by the IA BoP due to failure to notify the board of the disciplinary action in IA. On 01/15/1998, Dr. Daniels' Ohio pharmacist license was placed on probation by the OH BoP for 1 year based on the action taken by the NV BoP. Dr. Daniels' pharmacist license in NV, IA and OH is active and in good standing. Ms. McDaniel made the motion to approve Dr. Daniels' application for reciprocity. Dr. Stephens seconded the motion. The motion carried.

Robert A. Kahl

Dr. Kahl answered yes to the question that asked "Have you ever been charged or convicted (including a nolo contendere pleas or guilty plea) of a felony or misdemeanor (other than minor traffic offenses) whether or not sentence was imposed, suspended, expunged, or whether you

were pardoned from any such offense?” Dr. Kahl states that he was charged with misdemeanor battery, but the charges were dropped and his record was expunged. Dr. Stephens made the motion to approve Dr. Kahl’s application for reciprocity. Dr. Kizer seconded the motion. The motion carried.

Christopher Good

Dr. Good answered yes to the question that asked “Have you ever been charged or convicted (including a nolo contendere pleas or guilty plea) of a felony or misdemeanor (other than minor traffic offenses) whether or not sentence was imposed, suspended, expunged, or whether you were pardoned from any such offense?” and “Has your pharmacist license in any jurisdiction ever been revoked, suspended, restricted, terminated, or otherwise been subject to disciplinary action (public or private) by any board of pharmacy or other state authority?” Dr. Good was convicted of possession of controlled substances in 1980. Dr. Good’s Texas pharmacist license was disciplined by the TX BOP on 11/17/1983, 12/05/1986 and 05/08/1999 due to impairment (confidential consent order-not available). On 06/04/1999, the Pennsylvania BOP disciplined placed Dr. Good’s PA pharmacist license on probation for 5 years based on the action taken by the TX BOP. Dr. Good’s pharmacist license in TX is active and in good standing and his PA license has expired. Dr. Stephens made the motion to approve Dr. Good’s application for reciprocity. Ms. McDaniel seconded the motion. The motion carried.

Paul Hagedorn

Dr. Hagedorn answered yes to the question that asked “Have you ever been charged or convicted (including a nolo contendere pleas or guilty plea) of a felony or misdemeanor (other than minor traffic offenses) whether or not sentence was imposed, suspended, expunged, or whether you were pardoned from any such offense?” Dr. Hagedorn was convicted of DUI on December 15, 2000. Dr. Hill made the motion to approve Dr. Hagedorn’s application for reciprocity. Dr. Kizer seconded the motion. The motion carried.

Raymond Frederick Strahley

Dr. Strahley answered yes to the question that asked “Has your pharmacist license in any jurisdiction ever been revoked, suspended, restricted, terminated, or otherwise been subject to disciplinary action (public or private) by any board of pharmacy or other state authority?” Dr. Strahley’s Ohio pharmacist license was suspended on 12/14/1999 due to impairment. On 09/10/2003, Dr. Strahley’s OH pharmacist license was placed on probation for 5 years. Dr. Strahley’s OH license is active and in good standing. Dr. Kizer made the motion to approve Dr. Strahley’s application for reciprocity. Dr. Smothers seconded the motion. The motion carried.

James Clayton Fite

Dr. Fite answered yes to the question that asked “Have you ever been charged or convicted (including a nolo contendere pleas or guilty plea) of a felony or misdemeanor (other than minor traffic offenses) whether or not sentence was imposed, suspended, expunged, or whether you

were pardoned from any such offense?” Mr. Fite stated on the application that he was arrested and charged with Grand Theft 3rd degree and successfully completed pretrial intervention. Charges dismissed. Ms. McDaniel made the motion to approve Dr. Fite’s application for reciprocity. Dr. Stephens seconded the motion. The motion carried.

Pharmacy Technician

Tracy Calvert

Ms. Calvert answered yes to the questions that asked “Have you been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Ms. Calvert was charged with use/possession of drug paraphernalia 1st offense, operating a motor vehicle under the influence of alcohol/drugs, and possession of marijuana on 02/12/2006. Ms. McDaniel made the motion to approve Ms. Calvert’s application for registration as a pharmacy technician. Dr. Kizer seconded the motion. The motion carried.

Latasha Carter

Ms. Carter answered yes to the questions that asked “Are there any charges pending against you? Charges of any kind in another state? Ms. Carter pled guilty on 08/23/2010 to battery 3rd degree on and was fined \$265. Ms. McDaniel made the motion to approve Ms. Carter’s application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

Timothy Owens

Mr. Owens answered yes to the questions that asked “Have you been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Mr. Owens was found guilty of DUI on 03/26/2007. The fine has been paid. Ms. McDaniel made the motion to approve Mr. Owen’s application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

LeSonya Gould

Ms. Gould answered yes to the questions that asked “Have you been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Ms. Gould was found guilty of disorderly conduct on 04/13/2007. Ms. McDaniel made the motion to approve Ms. Gould’s application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

Cheryl Sanders

Ms. Sanders answered yes to the questions that asked “Have you been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Ms. Sanders entered a best interest plea on 03/30/2006

for harassment. She was given a 30 day suspended sentence and to complete an Anger Management Program and CRO Program by 07/01/2006. Ms. McDaniel made the motion to approve Ms. Sanders' application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

Leah Keith

Ms. Keith answered yes to the questions that asked "Have you been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Ms. Keith was charged with underage consumption on 10/18/2009 and she was given pre trial diversion on 01/04/2010 and the charge was dismissed. Dr. Stephens made the motion to approve Ms. Keith's application for registration as a pharmacy technician. Ms. McDaniel seconded the motion. The motion carried.

Donna Watkins

Ms. Watkins answered yes to the question that asked "Have you been convicted of a felony?" Ms. Watkins was convicted of possession of marijuana on 06/23/1983 and was given 3 year probation. Probation lifted on 10/16/1986. Ms. McDaniel made the motion to approve Ms. Watkins' application for registration as a pharmacy technician. Dr. Kizer seconded the motion. The motion carried.

Samantha Buford

Ms. Buford answered yes to the questions that asked "Have you been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Ms. Buford was convicted of DUI in 1999. Dr. Stephens made the motion to approve Ms. Buford's application for registration as a pharmacy technician. Ms. McDaniel seconded the motion. The motion carried.

Delma Chambers

Ms. Chambers answered yes to the questions that asked "Have you been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? On **10/13/1995**, found guilty of simple possession of marijuana and given 11 months and 29 days suspended sentence. **01/18/1999**, guilty of drug paraphernalia-unlawful use and criminal trespass. **05/25/1998**, found guilty of theft of property (less than \$50.00). **09/14/1999**, found guilty of criminal trespass and completed court process. **01/18/1999** found guilty of criminal trespass-aggravated. **05/26/1996** found guilty of impersonation criminal and criminal trespass aggravated, theft of property (less than \$50.00 or no value determined), completed court process. **05/06/1996**, charged with drug paraphernalia-unlawful use dismissed. **04/25/1996**, found guilty of theft of property (less than \$50.00). **04/12/1999**, found guilty of theft of property \$500.00 or less. **05/29/1996**, found guilty of shoplifting (less than \$50.00). **12/01/1995**, found guilty of shoplifting (less than \$500.00). **07/06/1997**, found guilty of cocaine possession,

completed court process. **10/23/1996**, found guilty of drugs simple possession marijuana resisting arrest, prostitution committing drug paraphernalia-unlawful use, criminal trespass, impersonation criminal, given 11 months and 29 days. **09/14/1999**, found guilty of theft of property (less than \$50.00). Ms. McDaniel made the motion to approve Ms. Chamber's application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried. Dr. Bunch and Dr. Hill voted in the negative.

Crystal Parrish

Ms. Parrish answered yes to the questions that asked "Have you been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Ms. Parrish was found guilty of DUI on 04/16/2008. Dr. Parrish made the motion to approve Ms. Parrish's application for registration as a pharmacy technician. Dr. Kizer seconded the motion. The motion carried.

Chiquita Brown (re-present)

Ms. Brown answered yes to the questions that asked "Have you been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Ms. Brown was found guilty for theft of property \$500.00 or less on June 23, 2010. On December 26, 2009, Ms. Brown was found guilty theft of property. Ms. Brown's application was deferred at the January 12-13, 2012 board meeting until she could submit certified court documents showing that the criminal case has been closed. Documents submitted shows that she has paid her fine. Ms. McDaniel made the motion to approve Ms. Brown's application for registration as a pharmacy technician. Dr. Bunch seconded the motion. The motion carried.

Julie Amos

Ms. Amos answered yes to the question that asked "Are there any charges pending against you? Drug charges? Ms. Amos was charged with possession or casual exchange-controlled substance on 03/06/2010 and the charges were dismissed on 06/21/2010. She paid court cost of \$142.28. On 07/14/2010, she was charged with possession or casual exchanged-controlled substance and it was dismissed on 06/06/2011. She paid court cost of \$175.88. Dr. Stephens made the motion to deny Ms. Amos' application for registration as a pharmacy technician. Dr. Kizer seconded the motion. The motion carried.

Lauren Roof (re-present)

Ms. Roof answered yes to the question that asked "Are there any charges pending against you? DUI? Charges of any kind in another state? Ms. Roof was arrested for DUI 1st offense on 08/06/2011. No court date has been set. Ms. Roof's application was presented at the November 2011 board meeting and deferred until the charges pending have been cleared. On 01/12/2012 the charge was nolle prosequi. Ms. McDaniel made the motion to approve Ms. Roof's

application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

James Smith (re-present)

Mr. Smith is applying for registration as a pharmacy technician in the State of Tennessee. Mr. Smith answered yes to the question that ask “Are there any charges pending against you?” Mr. Smith was arrested and charged with sexual battery on 12/08/2010. Mr. Smith’s application was presented to the board at the September 2011 board meeting and was deferred until the pending charges could be resolved. Documentation submitted shows the charges were dismissed and expunged dated 01/24/2012. Dr. Stephens made the motion to approve Mr. Roof’s application for registration as a pharmacy technician. Dr. Smothers seconded the motion. The motion carried.

William White

Mr. White answered yes to the question that asked “Are there any charges pending against you? DUI? Mr. White was arrested on 09/24/2011 in Orlando, FL for DUI. Case is currently pending in pre-trial diversion. Ms. McDaniel made the motion to deny Mr. White’s application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

Christopher Harrell

Mr. Harrell answered yes to the questions that asked “Have you been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens?” Mr. Harrell was found guilty of theft of property under \$500.00 on 07/13/2006. He was placed on probation for 11 months and 29 days and ordered to pay restitution. Restitution was made in open court. Ms. McDaniel made the motion to approve Mr. Harrell’s application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

Waivers

Board rule 1140-1-.07

Dr. Stephens reaffirmed the board previous decision to **Ronald E. Harvill, R.Ph.** Dr. Harvill must successfully take and pass the MPJE. Dr. Smothers seconded the motion. The motion carried.

Board rule 1140-01-.04 (1) (c)

Dr. Stephens made the motion to approve the request from **Yixin Liang** to count her research hours toward the required four hundred non traditional pharmacy internship hours. Dr. Smothers seconded the motion. The motion carried.

Dr. Stephens made the motion to approve the request from **John Dorris**, to count his research hours toward the required four hundred non traditional pharmacy internship hours. Ms. McDaniel seconded the motion. The motion carried.

Dr. Stephens made the motion to approve the request from **Jason McNeal** to count his research hours toward the required four hundred non traditional pharmacy internship hours. Ms. McDaniel seconded the motion. The motion carried.

Board rule 1140-05-.01

Dr. Kizer made the motion to approve the request from **Zachery L. Cox, Pharm. D.** that his attendance at the Heart Failure Society of America 15th annual meeting to count toward the fifteen (15) continuing pharmaceutical education live hours for the 2010-2012 renewal cycle. Dr. Stephens seconded the motion. The motion carried

Consent Orders

Dr. Stephens made the motion to accept the following consent order. Dr. Smothers seconded the motion. The motion carried.

REVOCATION

Melissa Dawn Zimmerman, RT

Dr. Kizer made the motion to accept the following consent order. Ms. McDaniel seconded the motion. The motion carried.

REVOCATION

Patrice N. Piskula, RT
Kimberly A. Dover, RT
Christopher M. Alonso, RT

Dr. Smothers made the motion to accept the following consent order. Dr. Stephens seconded the motion. The motion carried.

INDEFINITE SUSPENSION

Matthew Adam Hobbs, Pharm. D.

Director's Report

Dr. Warren requested a brief overview of the Controlled Substance Monitoring Database (CSMD) from Ms. Brewer. Ms. Brewer is administrator for the CSMD. Ms. Brewer explained to the board how the system works and what is required from a dispenser.

Dr. Black spoke to the board concerning proposed legislation that would require a pharmacist to submit to the CSMD every 24 hours and to check the database. Dr. Black stated that the bill may be changing to reporting every seven days with the goal of getting to real time.

Dr. Holt asked the board for approval to attend the NABP/AACP District III meeting to be held in Savannah, GA on August 11-14, 2012. After discussion, Dr. Stephens made the motion to approve travel for the executive director and board members to attend. Ms. McDaniel seconded the motion. The motion carried.

Dr. Holt asked the board for approval to attend the TPA 125th Annual Meeting to be held in Panama City, FL on July 16-19, 2012. After discussion, Dr. Stephens made them motion to approve travel for the executive director, the pharmacy investigators and for the booth rental fee. Dr. Hill seconded the motion. The motion carried.

Dr. Holt asked the board for approval to attend the Maltagon meeting to be held in Tulsa, OK on September 9-12, 2012. Dr. Holt informed that board that this meeting does conflict with the board's September meeting. After discussion, Dr. Smothers made the motion to approve travel for the executive director and leave the date of the September meeting as scheduled. Ms. McDaniel seconded the motion. The motion carried.

Dr. Holt presented a request from Belmont University School of Pharmacy concerning their MPJE law review and their request that he participate. After discussion, the board decided that this would be considered a conflict of interest.

Dr. Warren asked the board to review the documents received from different states concerning criminal background checks for owners of pharmacies and manufacturer/wholesaler/distributors and be prepared to discuss at the next scheduled meeting.

Dr. Grinder spoke to the board about changes that can be made to a controlled substance schedule II prescription. The board's policy stated that a according to the DEA a pharmacist cannot change the name of the patient, name of drug (except for generic substitution permitted by state law), name of prescribing practitioner (including signature) and date. Dr. Grinder stated that some states have statutes in place to allow the pharmacist to change the date. Dr. Grinder spoke with the DEA and was informed that the date on a controlled substance scheduled II prescription cannot be change. After discussion, Dr. Kizer made the motion to delete the statement that says that the date cannot be changed. Dr. Hill seconded the motion. The motion carried.

Legislative Update

Dr. Holt reviewed the following bills for the board and informed the board that they may take a position or not on the proposed bills.

Senate Bill 2308

Extends the Board of Pharmacy until June 30, 2016 and will allow other pharmacy groups included but not limited to the Tennessee Pharmacy Association to submit recommendations of qualified persons to the governor to fulfill vacancies of the board.

Senate Bill 2771

Amends Title 39 Chapter 17 and Title 38 and 40 to state that any product or products that contain any immediate methamphetamine precursor may be dispensed only by a licensed pharmacy upon presentment of a valid prescription issued by a licensed physician. The board did not take a position.

Senate Bill 2530

This bill requires a pharmacy to maintain a database of persons in the household of individuals for whom the pharmacist or pharmacy is dispensing a prescription for a controlled substance. At the time that a pharmacist dispenses a prescription to an individual for the first time, the pharmacist must ask the individual who is authorized to pick up prescriptions and record the names in a database at the pharmacy. For an individual under 18 years of age for whom medication is prescribed, a parent or legal guardian must determine who in the household may pick up prescriptions for controlled substances, unless the minor is an emancipated minor. And it also requires a pharmacist or pharmacy to obtain identification from a person who presents to take possession of a controlled substance as a prescription drug and consult the database maintained by the pharmacy, before the pharmacist or a pharmacy dispenses or delivers such a prescription drug to the person. The board did not take a position.

Dr. Bunch made the motion to adjourn at 5:00 p.m.. Dr. Kizer seconded the motion. The motion carried.

The minutes were ratified at the May 16-17, 2012 board meeting.

Tennessee Board of Pharmacy
Board Meeting
March 6, 2012